

**REMARKS**

Claims 1-15 are presently pending in this application. Basis for the amendments are found throughout the application as originally filed. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

**REJECTION UNDER 35 U.S.C. § 112**

Claims 1-15 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed. Applicant disagrees with the Examiner's assertion. Nonetheless, pending claims have been amended to delete the term user, thereby rendering this rejection moot.

**REJECTION UNDER 35 U.S.C. §102**

Claims 1-13 and 15 stand rejected under 35 U.S.C. §102(b) as being anticipated by Miyashita et al. (US 5,959,747). Reconsideration is respectfully requested for the following reasons.

Miyashita relates to a test recording method. Of note, Miyashita teaches writing test data onto a disk adjacent to the tracks where new data is to be recorded. The test data is then used to determine an erasing power for erasing data previously recorded in the disk. Thus, test data is recorded and reproduced on different tracks of the disk that the data to be erased.

In contrast, applicant's invention determines overwriting recording conditions by reproducing the data previously recorded on the disk. The previously recorded data is then overwritten with new data in accordance with the overwriting recording conditions. Thus, the new data is being overwritten onto the same tracks as the data used in the reproducing step. Pending claims have been amended to clarify that the new data is recorded onto the same tracks as the old data. Consequently, the old data can be perfectly erased when overwritten with the new data. Therefore, it is respectfully submitted

that the pending claims define patentable subject matter over Miyashita. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.


### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-0750, under Order No. 2552-000063/US from which the undersigned is authorized to draw.

Dated: October 1, 2008

Respectfully submitted,

By 

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